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7
8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2004-5

12 SAMUEL S. SANCHEZ
9010 Corbin Avenue #18
13 Northridge, CA 91324

**DEFAULT DECISION
AND ORDER**

14 Certified Public Accountant Certificate No.
25474

[Gov. Code §11520]

15
16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about December 1, 2003, Complainant Carol Sigmann, in her
19 official capacity as the Executive Officer of the California Board of Accountancy, Department of
20 Consumer Affairs, filed Accusation No. AC-2004-5 against Samuel S. Sanchez (Respondent)
21 before the California Board of Accountancy (Board).

22 2. On or about December 2, 1977, the Board issued Certified Public
23 Accountant Certificate No. 25474 to Respondent. The Certificate was expired and not valid
24 during the period from June 1, 1998 through May 26, 2003. The Certificate was renewed on
25 May 27, 2003 and will expire on May 31, 2004, unless renewed.

26 3. On or about December 12, 2003, Louise Steinberg, an employee of the
27 Department of Justice, served by Certified Mail and First Class Mail a copy of the
28 Accusation No. AC-2004-5, Statement to Respondent, Notice of Defense, Request for Discovery,

1 and Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of
2 record with the Board, which was and is 9010 Corbin Avenue #18, Northridge, CA 91324. A
3 copy of the Accusation, the related documents, and Declaration of Service are attached hereto as
4 Exhibit A and incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. Government Code section 11506 states, in pertinent part:

8 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
10 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
11 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

12 6. Respondent failed to file a Notice of Defense within 15 days after service
13 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
14 Accusation No. AC-2004-5.

15 7. Government Code section 11520 states, in pertinent part:

16 "(a) If the respondent either fails to file a notice of defense or to appear at the
17 hearing, the agency may take action based upon the respondent's express admissions or upon
18 other evidence and affidavits may be used as evidence without any notice to respondent."

19 8. Pursuant to its authority under Government Code section 11520, the Board
20 finds Respondent is in default. The Board will take action without further hearing and, based on
21 Respondent's express admissions by way of default and the evidence before it contained in
22 Exhibit A, finds that the allegations in Accusation No. AC-2004-5 are true.

23 9. The total costs for investigation and enforcement are \$5,897.80 as of
24 January 31, 2004.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Samuel S. Sanchez has subjected his Certified Public Accountant Certificate No. 25474 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Accountancy is authorized to revoke Respondent's Certified Public Accountant Certificate based upon the following violations alleged in the Accusation:

- a. Business and Professions Code sections 5100 and 5050, in that Respondent practiced public accountancy during a time when his certificate was expired.
- b. Business and Professions Code sections 5100 and 5060, in that Respondent practiced public accountancy under an unregistered name.
- c. Business and Professions Code sections 5100(b) and 498, in that Respondent provided false and misleading information on his license renewal form.
- d. Business and Professions Code section 5100(c), in that Respondent engaged in dishonesty and fraud by presenting himself to clients as a certified public accountant and performed public accounting services during a time when his certificate was expired.
- e. Business and Professions Code section 5100(g), and California Code of Regulations, title 16, section 87(c), in that Respondent failed to complete continuing education requirements.
- f. Business and Professions Code section 5100(g), in that Respondent willfully violated rules and regulations promulgated by the Board.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED May 18, 2004

Attachment:

Exhibit A: Accusation No.AC-2004-5, Related Documents, and Declaration of Service

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prepared by cak (03/04)

Exhibit A

Accusation No. AC-2004-5 and Related Documents,
and Declaration of Service

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**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2004-5

SAMUEL S. SANCHEZ
9010 Corbin Avenue #18
Northridge, CA 91324

A C C U S A T I O N

Certified Public Accountant Certificate
No. 25474

Respondent.

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

2. On or about December 2, 1977, the California Board of Accountancy issued Certified Public Accountant Certificate No. 25474 to Samuel S. Sanchez (Respondent).

The Certificate was expired and not valid during the period of June 1, 1998 through May 26, 2003, due to Respondent's failure to pay the renewal fee and failure to submit a declaration of compliance with continuing education requirements.

Effective May 27, 2003, Certificate No. 25474 was renewed through May 31, 2004.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 5100 of the Code states, in part:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

....

"(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

....

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter."

5. Section 5050 of the Code states:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing

1 therein, from temporarily practicing in this State on professional business incident to his regular
2 practice in another state or country."

3 6. Section 5060, subdivision (b), of the Code states:

4 "No person or firm may practice public accountancy under any name other than
5 the name under which the person or firm holds a valid permit to practice issued by the board."

6 7. Section 498 of the Code states:

7 "A Board may revoke, suspend, or otherwise restrict a license on the ground that
8 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact
9 or by knowingly omitting to state a material fact."

10 8. California Code of Regulations, title 16, section 87, states, in part:

11 "(a) 80 Hours.

12 "As a condition of active status license renewal, a licensee shall complete at least
13 80 hours of qualifying continuing education as described in Section 88 in the two-year period
14 immediately preceding license expiration, and meet the reporting requirements specified in
15 subsection (a) of Section 89. A licensee engaged in the practice of public accountancy as defined
16 in Section 5051 of the Business and Professions Code is required to hold a license in active
17 status. No carryover of continuing education is permitted from one two-year license renewal
18 period to another.

19

20 "(c) Accounting and Auditing Continuing Education Requirement.

21 "A licensee who engages in planning, directing, performing substantial portions of
22 the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24
23 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course
24 subject matter specified in this subsection. Course subject matter must pertain to financial
25 statement preparation and/or reporting (whether such statements are prepared on the basis of
26 generally accepted accounting principles or other comprehensive bases of accounting), auditing,
27 reviews, compilations, industry accounting, attestation services, or assurance services. This
28 continuing education shall be completed in the same two-year license renewal period as the

1 report is issued. If no report is issued because the financial statements are not intended for use b-
2 third parties, the continuing education shall be completed in the same two-year license renewal
3 period as the financial statements are submitted to the client."

4 9. Section 5107 of the Code provides, in part, that the Board's Executive
5 Officer may request the administrative law judge, as part of the proposed decision in a
6 disciplinary proceeding, to direct a Respondent found to have committed specified acts of
7 unprofessional conduct to pay to the Board all reasonable costs of investigation and prosecution.

8 FIRST CAUSE FOR DISCIPLINE

9 (Practice Without Permit)

10 10. Respondent is subject to disciplinary action under Sections 5100 and 5050
11 of the Code, for unprofessional conduct, in that Respondent engaged in the practice of public
12 accountancy during the period his permit was in an expired (delinquent) status. The
13 circumstances are as follows:

14 A. Certificate No. 25474, issued to Respondent, was expired and not valid
15 during the period from June 1, 1998 through May 26, 2003.

16 B. On or about May 22, 2002, Respondent presented himself to the public as
17 a certified public accountant (CPA) on his website.

18 C. On July 11, 2002, the Board's investigator telephoned Respondent's
19 office, and the outgoing message on the answering machine indicated to callers they had reached
20 the "office of Sam Sanchez, CPA".

21 D. On January 30, 2003, the Board's investigator telephoned Respondent's
22 office and the receptionist answered the phone "Sam Sanchez Accounting".

23 E. Respondent prepared a compilation report on or about September 9, 2000
24 (for Central Fish & Oyster Inc.), and another compilation report on or about December 2, 2002
25 (for Angela Torti Fashions Inc.).

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1 performed public accounting services at a time when his license was in an expired status, as
2 alleged in Paragraphs 10, 11, and 12, above.

3 FIFTH CAUSE FOR DISCIPLINE

4 (Failure to Complete Continuing Education Requirement)

5 14. Respondent is subject to disciplinary action under Section 5100,
6 subdivision (g), of the Code, for unprofessional conduct, in that, with regard to his license
7 renewal for the May 31, 2002 expiration date, Respondent failed to complete 24 hours of
8 continuing education in accounting and auditing, as required by California Code of Regulations,
9 title 16, section 87, subdivision (c). The circumstances are as follows:

10 A. Respondent performed a compilation on September 9, 2000, which was
11 during the two year period preceding his license expiration date of May 31, 2002. Consequently,
12 Respondent was required to complete 24 hours of continuing education in accounting and
13 auditing, pursuant to California Code of Regulations, title 16, section 87, subdivision (c).

14 B. Respondent submitted to the Board his certificates of completion for his
15 continuing education courses. However, those certificates indicated that Respondent only
16 completed 12 hours of continuing education in the field of accounting and auditing.

17 SIXTH CAUSE FOR DISCIPLINE

18 (Willful Violation of Board Regulations)

19 15. Respondent is subject to disciplinary action under Section 5100,
20 subdivision (g), of the Code, for unprofessional conduct, in that Respondent violated certain rules
21 and regulations promulgated by the Board, by practicing with an expired license, operating under
22 a name not registered with the Board, and failing to fulfill the continuing education requirement
23 for license renewal, as alleged in Paragraphs 10 through 14, above.

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1 PRAYER

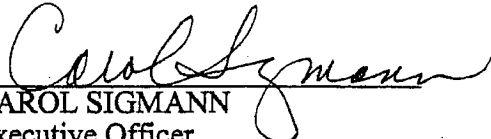
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

4 1. Revoking or suspending Certified Public Accountant Certificate
5 No. 25474 to Samuel S. Sanchez;

6 2. Ordering Samuel S. Sanchez to pay the California Board of Accountancy
7 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 5107;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: December 1, 2003

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12 
13 CAROL SIGMANN
14 Executive Officer
15 California Board of Accountancy
16 Department of Consumer Affairs
17 State of California
18 Complainant

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